

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARL WELLS,

Plaintiff,

-against-

STATE OF NEW YORK DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

19-CV-11280 (CM)

ORDER

COLLEEN MCMAHON, United States District Judge:

Plaintiff filed this action *pro se* in the United States District Court for the Eastern District of New York, and District Judge Kiyo A. Matsumoto transferred it here because Plaintiff's claims arose at Green Haven Correctional Facility. The Court thereafter directed Plaintiff to file a request to proceed *in forma pauperis* and a prisoner authorization or prepay the filing fees. On February 5, 2020, the Court received a letter from Plaintiff, in which he advised the Court that he was "not ready to litigate this claim" and that he wished to withdraw his complaint. (ECF 11.) By order dated February 6, 2021, the Court granted Plaintiff's request to withdraw the action and dismissed it, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, without prejudice to Plaintiff's refiling it. (ECF 12.)

After this action was closed, on February 12, 2020, Plaintiff wrote to the Court about problems at Green Haven Correctional Facility with his law library access, his acid reflux medication, and his classification at medium security level. (ECF 13.) Plaintiff recently wrote a letter addressed to District Judges Kiyo A. Matsumoto and John G. Koeltl, and copied to New York State Department of Corrections and Community Supervision Commissioner Anthony Annucci. The letter, which the Court received on November 16, 2021, was labeled with the docket number 19-CV-11280, and was therefore docketed in this closed action. In his letter,

Plaintiff writes that he seeks to have a medical evaluation at a hospital outside Green Haven Correctional Facility. (ECF 14.) The letter is difficult to read, but Plaintiff appears to describe his health concerns about his eye, liver, pancreas, and stomach, and he discusses his “sick call” visits. (ECF 14 at 1-5.) Plaintiff asks the Court to have him referred to an outside hospital.

The Court cannot act on Plaintiff’s letter, among other reasons, because this action is closed. It appears that Plaintiff may intend to bring a new civil action to raise claims of deliberate indifference to his serious medical needs. The Court therefore directs the Clerk of Court to send Plaintiff forms to file a new federal civil rights action.

CONCLUSION

The Court cannot act on Plaintiff’s letter request (ECF 14) in this closed action. The Court directs the Clerk of Court to send Plaintiff forms to file a new prisoner civil rights action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). The Court also directs the Clerk of Court to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: November 23, 2021
New York, New York



COLLEEN McMAHON
Chief United States District Judge